

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

VALLEY VIEW ANGUS RANCH, INC., an)	
Oklahoma corporation, and OTIS)	
CULPEPPER,)	
)	
Plaintiffs,)	
)	
vs.)	NO. CIV-04-191-D
)	
DUKE ENERGY FIELD SERVICES, LP.,)	
)	
Defendant.)	

ORDER AND JUDGMENT

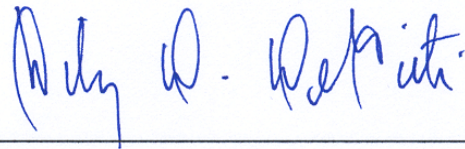
Pursuant to the parties' agreement during the July 22, 2008 pretrial conference in this matter, and consistent with certain pretrial admissions of Defendant and stipulated facts reflected in the Final Pretrial Report, the Court has reconsidered one of the rulings in its interlocutory order [Doc. No. 170] on the Plaintiffs' Motion for Partial Summary Judgment. In that order, the Court denied that portion of Plaintiffs' Motion in which judgment was sought on the issue of Defendant's liability to Plaintiff Valley View Angus Ranch, Inc. ("Valley View") based on a leak in Defendant's pipeline underlying Valley View's property. Defendant has expressly admitted and stipulated a leak occurred in its pipeline underlying Valley View's property, that there was a resulting release of condensate, and that it is liable for any harm to Valley View's property directly caused by the leak and condensate release.¹

As a result, the Court concludes that Valley View is entitled to judgment on the issue of Defendant's liability for any resulting harm to the property of Valley View.

¹Defendant's admissions do not go to issues of whether Valley View has suffered, and may recover damages for, loss of use of said property, nor does it admit that plaintiff Otis Culpepper may properly recover damages based on any personal annoyance, inconvenience and discomfort as a result of the pipeline leak. These matters remain for determination at trial.

Accordingly, partial summary judgment is hereby entered in favor of Valley View Angus Ranch, Inc. on its claim that Defendant is liable for any injury to real property, and resulting damages, incurred by Valley View Angus Ranch, Inc. directly caused by the pipeline leak and release of condensate. The issue of recoverable damages for such injury to real property, if any, remains for determination at trial.

IT IS SO ORDERED this 22nd day of July, 2008.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE

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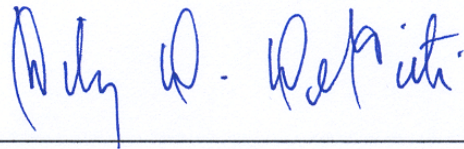
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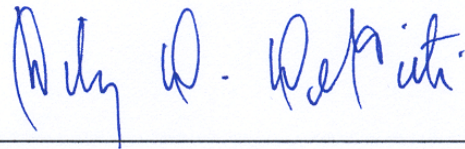
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